

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.
16LP-134177

In Re Application Of: **Kostrzewski et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/745,363	December 21, 2000	Sherali, Ishrat I	30764	2621	2371

Invention: **Method of Isomorphic Singular Manifold Projection Still/Video Imagery Compression**

Attention: Office of Petitions
Mail Stop Petition
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper response to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extension of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. ☒ A proposed reply to the above-identified Office Action:

☒ is enclosed. ☐ was filed on _____

The proposed reply is in the form of: _____

2. ☐ The issue fee:

☐ is enclosed. ☐ was paid on _____

3. ☒ Applicant claims small entity status. See 37 CFR 1.27

4. ☒ The abandoned application was a:

☐ design application. ☒ utility application. ☐ plant application.

5. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

6. ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

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Docket No.
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In Re Application Of: **Kostrzewski et al.**

Application No. 09/745,363	Filing Date December 21, 2000	Examiner Sherali, Ishrat I	Customer No. 30764	Group Art Unit 2621	Confirmation No. 2371
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Invention: **Method of Isomorphic Singular Manifold Projection Still/Video Imagery Compression**

Calculation and Payment of Fees

Enclosed are the following fees:

7. ☒ Petition fee under 37 CFR 1.17(m) in the amount of: \$810.00
8. ☐ Fee for reply in the amount of: _____
9. ☐ Issue fee in the amount of: _____
10. ☐ Continuing application filing fee in the amount of: _____
11. ☐ Terminal disclaimer fee in the amount of: _____
12. ☒ Extension fee for response within first month \$65.00
- Total fees enclosed: \$875.00

The fee of **\$875** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **50-4562**
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.
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In Re Application Of: **Kostrzewski et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/745,363	December 21,	Sherali, Ishrat I	30764	2621	2371

Invention: **Method of Isomorphic Singular Manifold Projection Still/Video Imagery Compression**

Statement

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioner/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Daniel N. Yannuzzi
Reg. No.: 36,727
SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448
Telephone: (858) 720-8900
Facsimile: (858) 509-3691

Dated: 2/23/19

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____.

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

CC:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	09/745,363
Applicant:	Kostrzewski <i>et al.</i>
Filed:	December 21, 2000
Title:	Method of Isomorphic Singular Manifold Projection Still/Video Imagery Compression
Group Art Unit:	2621
Confirmation No.:	2356
Docket No.:	16LP-134177
Examiner:	SHERALI, Ishrat I

**DECLARATION OF ANUP SURESH IN SUPPORT OF
PETITION FOR REVIVAL OF ABANDONED APPLICATION
UNDER 37 C.F.R. § 1.137**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Anup A. Suresh, declare as follows:

1. I am an attorney licensed to practice law in the State of California and I am an associate at the law firm of Sheppard, Mullin, Richter & Hampton.
2. Sheppard, Mullin, Richter & Hampton represents the Physical Optics Corporation, which is the owner of the entire right, title, and interest in U.S. Patent Application Serial No. 09/745,363, filed on December 21, 2000 and entitled "Method of Isomorphic Singular Manifold Projection Still/Video Imagery Compression."
3. I am informed and believe that the Physical Optics Corporation takes reasonable steps to ensure timely response to communications (e.g., Office Actions) from the USPTO. Accordingly, the Physical Optics Corporation relies on outside counsel for

all matters relating to docketing, prosecution and maintenance of its patents and patent applications worldwide. The Physical Optics Corporation receives and relies on regular status reports from outside counsel detailing statuses, actions due, fees due and deadlines for all worldwide patents and applications.

4. I am informed and believe that at the time this patent application went abandoned for failure to timely file a proper reply, Leonard Tachner, at The Law Offices of Leonard Tachner, was outside counsel for the Physical Optics Corporation, and was responsible for the items outlined in paragraph 3, above.

5. I am informed and believe that Mr. Tachner is an attorney licensed in the state of California and registered to practice before the United States Patent and Trademark Office.

6. I am informed and believe that Mr. Tachner uses a docketing system to track actions and their associated due dates.

7. I am informed and believe Daniel Yannuzzi, a partner at the law firm of Sheppard, Mullin, Richter & Hampton, is an attorney licensed to practice law in the State of California and registered to practice before the United States Patent and Trademark Office (USPTO).

8. I am informed and believe Michael Febbo, an associate at the law firm of Sheppard, Mullin, Richter & Hampton, is an attorney licensed to practice law in the State of California and registered to practice before the United States Patent and Trademark Office (USPTO).

9. I am informed and believe that on or about August of 2007, the Physical Optics Corporation learned that numerous patent matters that Mr. Tachner was responsible for may have gone abandoned even though the Physical Optics Corporation did not receive any communication from Mr. Tachner to indicate that such matters may have gone abandoned or would become abandoned.

10. I am informed and believe that the Physical Optics Corporation immediately attempted to contact Mr. Tachner to investigate whether the status reports they had been receiving were accurate and to determine the extent of any inaccuracies. Mr. Tachner failed to return their calls or answer their inquiries.

11. I am informed and believe that because Mr. Tachner was not responsive to the Physical Optics Corporation's repeated inquiries, in September of 2007 the Physical Optics Corporation undertook a search for new counsel to handle their patent matters.

12. In October of 2007 the Physical Optics Corporation retained Sheppard Mullin Richter & Hampton as their new intellectual property counsel and initiated a transfer of all of their patent files to Sheppard Mullin Richter & Hampton.

13. Sheppard, Mullin, Richter & Hampton immediately undertook a thorough investigation of the entire docket of intellectual properties and learned that the subject patent application had been abandoned for failure to respond to an Office Action.

14. I am informed and believe that Mr. Yannuzzi made repeated attempts to contact Mr. Tachner regarding the abandonment. At the time, Mr. Tachner refused to answer his telephone or to return his telephone calls. Nonetheless, Mr. Yannuzzi worked diligently through his assistant to obtain a signed declaration of Mr. Tachner that the failure to reply to the Office Action was due to a docketing error and was unavoidable. Subsequently, on December 5, 2007, Mr. Yannuzzi received from Mr. Tachner's assistant a declaration signed by Mr. Tachner stating that the failure to reply to the Office Action was due to a docketing error and was unavoidable and unintentional.

15. I am informed and believe that on December 6, 2007, a Petition to Revive United States Application Serial No. 09/745,363 was filed with the USPTO. Subsequently, on February 29, 2008, this Petition was dismissed by the USPTO.

16. I am informed and believe that on November 24, 2008, a subsequent Petition to Review United States Application Serial No. 09/745,363 was filed with the USPTO. Thereafter, on December 17, 2008, this Petition was dismissed by the USPTO.

17. Since receiving the decision on the Petition to Revive United States Patent Application Serial No. 09/745,363, dated December 17, 2008, my colleague Daniel Yannuzzi and I have diligently attempted to acquire additional evidence to show that the entire delay for filing a response to the non-Final Office Action dated September 11, 2002, was unintentional and unavoidable.

18. Since receiving the decision on the Petition to Revive United States Patent Application Serial No. 09/745,363, dated December 17, 2008, my colleague Mr. Yannuzzi and I had attempted to contact the Office of Petitions on several occasions to determine what specific types of additional evidence we should obtain and submit to the USPTO in order to cure our alleged deficient showing that the delay was unintentional and unavoidable. Such attempts were made on January 6, 2009, January 12, 2009, and January 27, 2009. On those occasions, because we unable to available to reach the Office of Petitions, Mr. Yannuzzi left a message regarding the US Application.

19. Since receiving the decision on the Petition to Revive United States Patent Application Serial No. 09/745,363, dated December 17, 2008, I have attempted to contact Mr. Tachner requesting further information with regards to the abandonment of United States Patent Application Serial No. 09/745,363. Subsequently, I received no response from Mr. Tachner.

20. On February 18, 2009, my colleague Michael Febbo and I contacted Ms. Faison-Ball in regards to United States Patent Application Serial No. 09/745,363. As a result of the conversation, Mr. Febbo and I contacted Mr. Tachner telephonically to request a copy of the docket calendar dating from December of 2002 to March of 2003, which evidences the docket error responsible for the unintentional and unavoidable delay in responding to the non-Final Office Action dated September 11, 2002.

21. On February 18, 2009, I received from Mr. Tachner a copy of the requested docket calendar from December 2002 to March 2003 via facsimile. (See Attached Exhibit A.) After reviewing Exhibit A, I believe the docket calendar received evidences the docket error responsible for the unintentional and unavoidable delay in responding to the non-Final Office Action dated September 11, 2002.

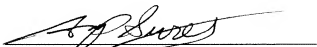
22. After reviewing Exhibit A, I believe page 1 of the December of 2002 docket calendar clearly evidences the docket error on the last, un-redacted line. The line states for the "Due Date" of December 11, 2002, that a "Resp. to First O.A." regarding "#09/745,363" was responded to with a "Resp. to Restriction Req." I believe this was the docket error responsible for the unintentional and unavoidable delay in responding to the non-Final Office Action, as no such response can be located within Mr. Tachner's records or the USPTO's records. Additionally, I believe page 1 of the March of 2003 docket calendar lacks a six-month due date on March 11, 2003, for the "Resp. to First O.A." relating to "#09/745,363" because Mr. Tachner erroneously believed based on the December 11, 2002 entry for "#09/745,363" that the action had already been responded to.

23. Hence, upon review of the docket calendar from Mr. Tachner (i.e., Exhibit A), my colleague Mr. Yannuzzi and I finalized the materials provided by Mr. Tachner to accompany a new Petition to Revive the United States Application No. 09/745,363 for unintentional abandonment.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: February 23, 2009

A handwritten signature in black ink, appearing to read 'Anup A. Suresh', is written over a horizontal line.

Anup A. Suresh
Sheppard, Mullin, Richter & Hampton

Exhibit A

TH December

20 Da

Page 1 of 3

[illegible]

DOCKET NO.	TYPE OF ACTION	DUE DATE	ACTION TAKEN IN RESPONSE	RESPONSE DATE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Per 100.0a1	Section 8: 15 Mts.	12-17-02	Completed	12-17-02
Per 100.0a1 & 2.052.4(a2)	815 Amenity Due	12-18-02	Paid	12-17-02
Per 100.0a1 & 2.052.4(a2)	Resp. to 1 st O.A. + 6/4 of Time	12-19-02	Resp. to O.A. + 6/4 of Time - Done	12-18-02
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Per 114/15A #3, 026, 131	3 rd Amenity (11.5/12)	12-25-02	Paid	12-20-02
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Per 92a/15A #3, 238/14	2 nd Fee Due	12-26-02	Paid	12-20-02

MONTH

December

2002

Page 2 of 3

[illegible]

[illegible]

MONTH January 20 03Page 2 of 2

DOCKET NO.	TYPE OF ACTION	DATE	ACTION TAKEN IN RESPONSE	RESPONSE DATE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PC 336/Amun (1/22/03)	Resp. to D.A. Dne	1-30-03	Completed Am.	1-30-03
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PC 204/USA	File Appeal Brief	1-26-03	File d	1-30-03
PC 100/212 (1/19/03)	Resp. to final D.A.	1-30-03	Amr - completed d	1-30-03
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[illegible]

[illegible]

DOCKET NO.	TYPE OF ACTION	DUE DATE	ACTION TAKEN IN RESPONSE	RESPONSE DATE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PC 00 03360 (Amended)	Amnesty Dec	2-25-03	PD.	2-20-03
PC 00 044 (As, 148, 107)	Amnesty Dec	2-25-03	PD.	2-20-03
PC 00 314 (As, 148, 104)	Amnesty Dec	2-25-03	PD.	2-21-03
PC 00 314 (Amended)	Req. For Exam Dec	2-25-03	Done	2-20-03
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PC 310 / Canada	Amnesty Dec	2-27-03	PD.	2-24-03
PC 0301600 / Penalties	Amnesty Dec	2-27-03	PD.	2-24-03
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

MONTH February 2003

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MONTH March 2003

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DOCKET NO.	TYPE OF ACTION	DATE	ACTION TAKEN IN RESPONSE	RESPONSE DATE
PC 301(a)(1) (b)(8)(8)(2)(1)	Req. for Exam	3-2-03	Done	3-27-03
PC 100-203 (404/44/15)	Issue Fees & Unsettled Docs	3-3-03	psd + Docs.	3-3-03
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PC 100-384 (PT 404/44/15)	National Drive	3-7-03	Completed	3-6-03
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PC 209/1504 (404/44/15)	Resp. to D.A. Doc	3-8-03	Amc.	3-6-03
PC 100-400 (404/44/15)	Resp. to 2 nd D.A. Doc	3-9-03	Amc.	3-6-03
PC 100/1504	Resp. to D.A. Doc	3-11-03	Amc.	3-6-03
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

MONTH

March 20 03

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DOCKET NO.	TYPE OF ACTION	DUE DATE	ACTION TAKEN IN RESPONSE	RESPONSE DATE
POC [redacted] (601/25, 441)	Resp. to O.A. Due	3-17-03	Ans. - completed	3-17-03
POC No. 336/PCT	Notional Due	3-18-03	Complete	3-17-03
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
POC 100/010/022 (601/25, 441)	1st Anniversary	3-21-03	pd. w/exchange	7-10-03
[redacted]	[redacted]	3-21-03	[redacted]	[redacted]
POC 100/088	Renewal Due + Ext of Time/Linking	3-22-03	Abandon per J. F. Via Bkic Gregory	3-19-03
POC 100/088	Resp. to O.A. Due	3-22-03	Ans.	3-21-03
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

DOCKET NO.	TYPE OF ACTION	DUE DATE	ACTION TAKEN IN RESPONSE	RESPONSE DATE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PR 217/220 (mtg 5/8/03)	Annuit. Dte	3-31-03	Paid	3-31-03